



CITY OF DALLAS

R06-08-R-001

October 10, 2007

Don West  
Environmental Management Support, Inc.  
8601 Georgia Avenue  
Suite 500  
Silver Spring, MD 20910

Dear Mr. West:

The City of Dallas is pleased to submit the enclosed Brownfields Revolving Loan Fund (RLF) Grant proposal. The RLF grant from the Environmental Protection Agency (EPA) will provide an opportunity to continue the work the City of Dallas has conducted over the past 11 years. Requested information is presented here.

1. Applicant Information:

City of Dallas  
Office of Economic Development  
1500 Marilla Street, Room 5CS  
Dallas, Texas 75201

2. Funding Requested: a) Grant type: RLF, b) Amount: \$2,000,000, c) Contamination: Petroleum and Hazardous substances

3. Location: This grant will served the citizens of Dallas, Texas and will focus on the southern sector.

Mayor Tom Leppert, 1500 Marilla Street, Room 5EN, Dallas, Texas 75201, Phone / Fax: 214-670-4054 / 214-670-0646

County Judge Jim Foster, Dallas County Courthouse, 411 Elm Street, 2nd Floor, Dallas, Texas 75202, Phone / Fax: 214-653-7361 / 214-653-7057.

Governor Rick Perry, Office of the Governor, P.O. Box 12428, Austin, Texas 78711-2428, Phone / Fax: 512-463-2000 / 512-463-1849

4. Project Contacts:

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Ann Grimes, Project Manager, Office of Economic Development, 1500 Marilla Street, Room 5CS, Dallas, Texas 75201, Phone / Fax: 214-670-3056 / 214-670-0158, Email: [ann.grimes@dallascityhall.com](mailto:ann.grimes@dallascityhall.com).

A. C. Gonzalez, Assistant City Manager, 1500 Marilla Street, Room 4CN, Dallas, Texas 75201, Phone / Fax: 214-670-3390 / 214-670-4965, [ac.gonzalez@dallascityhall.com](mailto:ac.gonzalez@dallascityhall.com).

5. Date submitted: October 9, 2007

6. Project Period: Five years beginning October 1, 2008 through September 30, 2013

7. Population: a) The population of the City of Dallas, based on the 2004 American Community Survey prepared by the United States Census Bureau, is 1,193,433. b) The City of Dallas is a municipal form of government.

8. Other: The target neighborhoods are not included in a federally-designated Empowerment Zone/Enterprise Community or Renewal Community. The City has five Officially Recognized Weed and Seed sites within the City limits. Four of these, West and South Dallas, Two-Points, and Pleasant Grove, are included in the Southern Sector. The fifth is the Ferguson Road Weed and Seed in East Dallas. Letter attached in Appendix D.

9. Cooperative Partners:

Jack Wierzenski, Economic Development Coordinator, Dallas Area Rapid Transit (DART), 1401 Pacific Avenue, Dallas, Texas 75266, Phone: 214-749-2881, Fax: 214-749-3844.

Mike Rosa, Vice President of Economic Development, Greater Dallas Chamber of Commerce (GDCC), 700 North Pearl Street, Suite 1200, Dallas, Texas 75201, Phone 214-746-6600, Fax 214-746-6669.

Rick Loessberg, Director of Planning and Development of Dallas County, 411 Elm Street, 3<sup>rd</sup> Floor, Dallas, Texas 75202, Phone 214-653-7601, Fax 214-653-6517.

Sincerely,



A. C. Gonzalez  
Assistant City Manager

## **Proposal for Community - Wide Revolving Loan Fund Grant (RLF) for Petroleum and Hazardous Substances**

### **Threshold Criteria for RLF Grants**

#### **A. Applicant Eligibility**

The City of Dallas is a local unit of government, first incorporated on February 2, 1856 and again on January 27, 1858 and adopted by the people on June 30, 1858. The Charter of the City of Dallas, Texas provides a description of the powers of the City including taxation. Dallas, Texas is a local unit of government as defined in Code of Federal Regulations Title 40, Part 31. Government is defined as a State or local government or a federally-recognized Indian tribal government.

#### **B. Description of Jurisdiction**

Dallas is located in Dallas County in the north central region of Texas and includes 333.3 square miles of land with almost 45 square miles of lake area within the city limits. RLF grant funds will be used for projects throughout the city limits of the City of Dallas.

#### **C. Letter from the Texas Commission on Environmental Quality**

A letter from the Texas Commission on Environmental Quality (TCEQ) Voluntary Cleanup Program (VCP) is included in Appendix A.

#### **D. Cleanup Authority and Oversight Structure**

1. Oversight of cleanup sites. The City of Dallas will act as the lead agency. The Dallas Brownfields Program (DBP), housed in the Office of Economic Development (OED), manages all aspects of the assessment grant program and will do the same with the RLF program. The City of Dallas will not exercise the option to provide subgrants to recipients for the initial, or first use and subsequent uses, of the funds. We anticipate loaning the funds to one developer who is undertaking multiple projects. All Revolving Loan Fund (RLF) program recipients shall be required to enroll all sites in the TCEQ VCP. This will ensure that cleanups are protective of human health and the environment and comply with VCP-approved cleanup criteria.

In May 1996, the TCEQ and the Environmental Protection Agency (EPA) signed a Memorandum of Agreement (MOA) which defined the roles and responsibilities of both agencies with respect to activities conducted under the authority of the TCEQ VCP. Both agencies pledged to employ their authorities and resources in mutually complementary, non-duplicative methods to facilitate, in part, the revitalization of brownfield sites. In addition, the DBP Project Manager (PM) will involve the EPA Region 6 Project Officer (EPA PO) from initiation of the project and shall notify the PO of all meetings, teleconferences, and discussions related to the cleanup activities.

To meet DBP requirements established with the program at its inception in October 1995, the loan recipient completes the Site Prioritization application, submits the permission letter, and signs the access agreement for each site. The DBP PM will assist the loan recipient identify environmental assessment requirements and costs for cleanup actions. The PM may recommend to the borrower that an Engineering Evaluation / Cost Analysis (EE / CA) be completed to provide evaluation of cleanup strategies and associated costs of each prior to finalizing the loan agreement for each site. The loan recipient shall provide documentation that the site is enrolled, or in the process of enrollment, in the TCEQ VCP.

The City of Dallas will act as the lead agency. The DBP PM is responsible for all environmental site assessment activities, including developing scopes of service and data quality objectives, coordinating all on-site activities, reviewing and approving all deliverables, processing all invoices, and dispersing final documents. The DBP PM will continue to manage the different environmental assessment tasks and review that are integral to the RLF administration scope of work. The DBP PM maintains a current 40-hour Occupational Safety and Health Act Hazardous Waste Operations and Emergency Response (HAZWOPER) certification and completes yearly refresher training at EPA Region 6 as mandated in the City of Dallas Quality Management Plan (QMP). The DBP PM also maintains a Stormwater Operator for Industrial Sites certification in the State of Michigan which is renewed every five years.

The DBP will work with TCEQ and an environmental consultant/engineer who will serve as a third-party on-scene coordinator (TPOSC) to verify the cleanup contractor is complying with all VCP requirements and that the work required is being performed within the predetermined scope of work and approved time lines. The DBP will hire the TPOSC using the City of Dallas procurement guidelines and the competitively-bid environmental testing price agreement which was approved by the Dallas City Council on June 27, 2007. The TPOSC will report weekly as to schedule and activity compliance to the BPM who will be present on site at scheduled and unscheduled times throughout the cleanup activities. Funds for the TPOSC will come from the RLF grant and will be described in Section E, Cost Share.

The DBP has the required quality assurance / quality control (QA/QC) documents in place including the QMP which is updated annually and approved by the EPA Regional Quality Assurance Manager. The 2007 QMP was approved by EPA on July 27, 2007. During fiscal year (FY) 05/06, the DBP developed a programmatic Quality Assurance Project Plan (QAPP) which was approved by EPA Region 6 Superfund Quality Assurance Officer and is reviewed annually. The loan recipient shall be provided with an electronic copy of the programmatic QAPP and shall be required to include the project-specific document as part of the deliverables associated with all cleanup plans. The EPA PO will receive copies of the draft final QAPPs for review and comment and will be a signatory on the final QAPP.

2. Attached in Appendix B is the opinion letter from legal counsel confirming that the City has legal authority to access and secure sites in event of emergency or loan default or non-performance under a subgrant.

#### E. Cost Share

The City of Dallas is applying for \$1 million of federal RLF funds and will provide the 20 percent cost share of \$200,000 from the City of Dallas General Fund budget. This will be approved through a City Council resolution scheduled upon acceptance by EPA of this proposal.

**F. Legal Authority to Manage a Revolving Loan Fund**

Attached in Appendix C, is legal counsel's opinion letter confirming that the City has the authority to hold funds, make loans, enter into loan agreements, and collect repayments. This is based on statute, regulation or other authority.

**Ranking Criteria for Assessment Grants**

**A. RLF Grant Proposal Budget**

We envision that the cleanup funds will be dispersed equally between the hazardous and petroleum grant loans. The tasks and categories will be the same for each of the loan types and are presented in the following budgets.

It is important to note that the City has determined that none of the City's internal administrative fees, including the loan processing and in-house administrative fees, will be taken from EPA funds. This represents an in-kind contribution to the project what is not included in the \$200,000.00 matching funds. This allows maximum efficiency by using all of the EPA funds for environmental cleanup, oversight, and outreach.

The budget includes a line item for loans which includes third-party oversight and environmental cleanup. The oversight will include the TPOSC services to verify to the DBP PM that all activities have been completed and cleanup benchmarks have been met throughout the clean up process. The community outreach task includes travel and supplies at \$10,000.00 total for each category for petroleum and hazardous materials. This will allow for purchase of supplies and RFL staff to participate in community outreach through meetings and conferences.

**Budget Description for RLF Grant  
Hazardous Cleanup Loans  
FY 2007/08-2012/13**

Budget Categories	Project Tasks			Totals
	Task 1	Task 2	Task 3 Community outreach* / supplies	
Travel			\$10,000.00	\$10,000.00
Supplies			\$10,000.00	\$10,000.00
Loans – cleanup and 3 <sup>rd</sup> party oversight	\$480,000.00			\$480,000.00
Subtotal	\$480,000.00		\$20,000.00	\$500,000.00
Cost Share	\$100,000.00			\$100,000.00
<b>Total</b>	<b>\$580,000.00</b>		<b>\$20,000.00</b>	<b>\$600,000.00</b>

\* Attend conferences and meetings to promote brownfields program

**Budget Description for RLF Grant**  
**Petroleum Cleanup Loans**  
**FY 2007/08-2012/13**

Budget Categories	Project Tasks			Totals
	Task 1	Task 2	Task 3	
		Third Party On-scene Coordinator / Environmental Compliance	Community outreach* / supplies	
Travel			\$10,000.00	\$10,000.00
Supplies			\$10,000.00	\$10,000.00
Loans – cleanup and 3 <sup>rd</sup> party oversight	\$480,000.00			
Subtotal	\$480,000.00		\$20,000.00	\$500,000.00
Cost Share	\$100,000.00			\$100,000.00
<b>Total</b>	<b>\$580,000.00</b>		<b>\$20,000.00</b>	<b>\$600,000.00</b>

\* Attend conferences and meetings to promote brownfields program

## **B. Community Need**

The overall focus of this community-wide assessment grant proposal is the Southern Sector of the City of Dallas. The DBP has, for 12 years, worked city-wide to revitalize brownfield sites. Of the 46 success stories promoted by the DBP, 32 are in the southern sector. We will continue to target areas with previous successes and explore other areas to create successes.

1. Target Community - Southern Sector The Southern Sector of Dallas is defined as the 190.44-square mile area south of the Trinity River and Interstate (I) – 30. It is a low income, environmental justice community. According to the 2000 Census data, the Southern Sector has a population of 491,539 of which 42.7 percent are African-American (209,795) and 42.10 percent Hispanic (206,982). Almost 45 percent are under 25 years of age; more than 7.5 percent are 65 years old or more. Thirty-eight percent of the residents do not have a high school diploma. More than 40 percent have a household income of less than \$15,000 and more than 15 percent have a household income less than \$34,999. The average per capita income is \$12,305. The median Dallas income is \$37,628. More than 34 percent are not in the labor force and the unemployment rate is 10.9 percent.

2. Grant benefits to community The RLF Program will allow the DBP, a brownfields player since 1995 and one of the original 29 EPA national assessment pilots, to expand from its purview to identify obstacles and barriers to brownfields redevelopment and develop strategies to overcome these obstacles and barriers. The DBP will now be able to fund environmental cleanup of hazardous substances and petroleum to promote revitalization of sites. We will continue to work with both established and new partners to promote economic revitalization of

formerly used sites and ensure our citizens live, work and play in environmentally safe surroundings.

A top priority for OED is implementing transit-oriented development (TOD) projects. To further this effort, the OED staff interacts with Dallas Area Rapid Transit (DART) planners to explore opportunities to facilitate TOD and assist both partners to bring new economic development to areas serviced by light rail and promote expansion of the light rail system. The OED, through approval of the Dallas City Council, has entered into a master development agreement with Cherokee New Transit, LLC (Cherokee) to promote TOD at DART light rail stations in furtherance of *ForwardDallas!*, the comprehensive plan for revitalization of the City. We anticipate there will be numerous brownfield sites surrounding the light rail stations. These sites will be acquired, assessed and cleaned up prior to redevelopment. It is critical that the City have cleanup funds to further this master development agreement to meet goals and objectives of the overall revitalization of Dallas neighborhoods.

3. Brownfields Impacts The City of Dallas became an EPA Brownfields Assessment Pilot city in October 1995 and a Brownfields Showcase Community in March 1998 and has had two other assessment grants in 2004 and 2006. The DBP staff maintains a list of 46 brownfields success stories. The RLF will provide Dallas with the opportunity to expand the program mission and assist developers and property owners to accomplish site revitalization. There are many potential redevelopment sites throughout the City, including the Southern Sector. These underutilized or abandoned properties are a detriment to any neighborhood. Through this RLF grant, the City plans to assist the owners to cleanup sites which will expedite redevelopment and will ultimately provide jobs, services, and economic vitality to the affected communities. We will build on the success of the previous decade and work with chamber and developer partners to continue the momentum of brownfields revitalization in the City of Dallas.

### **C. Business Plan for RLF Program**

1. Business concept and main loan product offered. The DBP RLF program concept is to utilize the RLF program resources to promote the redevelopment of brownfields sites. A number of developable properties in economically distressed areas of Dallas are avoided by developers because of the additional costs associated with environmental cleanup. The RLF program permits the City to offer low-cost financing to property owners and developers to offset the negative financial impact of environmental cleanup. The RLF program will provide low-cost loans which will be combined with private funds and with funds from other City programs, including infrastructure cost participation, tax increment financing, property tax abatements, development fee rebates and economic development grants, to entice developers into investing significant dollars in these distressed areas. Local loan funds may be utilized for infrastructure in areas surrounding brownfield sites in order to increase the impact of the cleanup and support area redevelopment. No sub-grants will be offered through the RLF program.

The DBP RLF program loan product will be a fixed, low-interest loan which will be offered at 0 to 5 percent interest. The loan terms including interest rate will take into consideration the ability of the borrower to repay, market rate of loan dollars, the amount to be borrowed, and the viability of the RLF program. Borrowers will have three years to drawdown the funds. At the

end of three years funds not drawdown will be reprogrammed by OED, returned to the RLF, and made available for other loans. Repayment will commence three years after the execution of the loan document, though interest will apply from the date when funds are dispensed. No loan term will be longer than eight years to ensure a reasonable period to revolve the funds to support other projects. The sale of the project property will trigger the immediate payment of the outstanding principle and interest. Repayments will be quarterly to ensure regular payments to the fund while minimizing administration.

RLF program funds may be used for costs incurred for the cleanup of all or a portion of the property and may include, but are not limited to, costs associated with sampling of existing groundwater monitoring wells, installation of new groundwater monitoring wells, soil sampling and analysis to gauge effectiveness of cleanup plan, trenching, impacted soil removal, transportation and disposal, clean fill substitution, groundwater remediation through injection, in situ remediation, cost of chemicals used in remediation, cost of laboratory analysis, field expertise, third-part oversight, sample acquisition data review, report preparation, costs associated with preparation of Response Action Plans, Response Action Completion Reports and QAPPs, and erosion control measures if required by TCEQ, EPA, or Dallas City Code.

2. Market analysis: target market, types of borrowers, territory and types of sites included in the RLF program. Obtaining financing for brownfields sites is difficult because of challenges including weak markets and growth levels which are lower and slower than the national average. Demographics often do not meet the minimum market requirements of major corporations. Typically, commercial lenders will not provide loans to cleanup brownfield sites in weak market areas. The RLF program will overcome these obstacles and will support brownfield redevelopment initiatives in areas with perceived weak markets and demographics. Loans will be made to private, public and non-profit entities which qualify and have viable revitalization projects. The first loans will be made to support the master agreement with Cherokee. As the fund matures, we will work with property owners and developers who have a successful and established tradition of redevelopment in Dallas. Our target area focus will be TOD and business corridors within the City, especially in the Southern Sector. Sites in these areas may include abandoned gas stations, industrial properties, and properties with unknown fill materials.

3. Project / Site Selection The City of Dallas has entered into a master development agreement with a brownfields revitalization company, Cherokee, which will assist the City with TOD-associated development at planned and to-be planned DART light rail stations. Cherokee will utilize all of the funds in the RLF three or four properties depending on the size and scope of the redevelopment. The sites may include abandoned gas stations, industrial properties, and properties with unknown fill materials. We will target projects with either hazardous substances or petroleum products or both. The sites will have similar characteristics and will be entered into the TCEQ VCP.

The sites included in our program inventory were selected based on established partnerships with for- and non-profit organizations operating throughout the City, but primarily in environmental justice communities. We work closely with our EPA PO to ensure sites and the borrower are eligible in accordance with Brownfields Law. We always have, and shall continue, to receive EPA approval prior to committing federal resources to assess brownfields sites.



The DBP has a Site Prioritization Process Application which is used to screen and prioritize sites for Phase I ESAs and was developed in conjunction with TCEQ and the DBP. The Dallas document has been effective since 1996 and will be used to prioritize sites identified for RLF funds.

Applicants seeking RLF program dollars must present projects that are ready according to the following criteria:

- Property must be owned by the borrower.
- Property must contain either or both petroleum and hazardous substance contamination.
- Property must not be on the National Priorities List (NPL) or under current enforcement by the EPA or TCEQ.
- All assessment reports [Phase I ESAs to All Appropriate Inquiries (AAI) or American Standards of Testing and Materials (ASTM) E-1527-05, Phase II ESAs to ASTM E-1903-97, Affected Property Assessment Report (APAR), and Remedial Action Plan (RAP)] must be completed for the property and the site must be entered into or in the process of being entered into the TCEQ VCP at time of application to the RPF program.

The DBP will use the TPOSC to review all Phase I ESAs to determine if the AAI has been met and confirm that the prospective borrower is a bona fide prospective purchaser. Borrowers must also present that they meet the following criteria before receiving RLF dollars:

- Borrower is in good financial standing and encompasses the ability to repay the loan and complete the project.
- Borrower is not responsible for the contamination at the property according to the Brownfields Law.
- Borrower intends to redevelop the property for a use other than the activity, which caused or contributed to the contamination and/or will not re-contaminate the property once remediated.
- Borrower has secured any additional financing required to complete the project.

Determine site and borrower eligibility The DBP will utilize the EPA-generated Checklist Assessment Site Eligibility form for each site. Completing the checklist will provide information necessary to determine site and borrower eligibility. The completed form will be provided to the EPA PO for review and concurrence / approval that the site and the borrower meet the requirements of the Brownfields Law.

4. Management and operational teams The DBP, housed within the City of Dallas Office of Economic Development (OED), will manage the RLF. Divisions within OED and other departments within the City will also serve on management and operational teams.

- OED staff will manage the RLF program. Within OED, the management structure includes a director with 30 years of banking experience and other executives and staff with multiple years of banking experience. One of the coordinators will serve as the Banking Specialist. This person will create the processes and procedures related to the loans; will review all loan documents and present them to the Loan Committee. This committee is made up of three

people, two from OED and one from the City of Dallas Office of Financial Services, Cash and Debt Management Division. This committee will review the loan documents approved by the banking specialist and make a final determination regarding approval or disapproval of the loan. Also, within OED is an accounting division with a budget manager, accountants, and a Certified Public Accountant (CPA) who will manage all of the financial requirements, provide monthly reports tracking the account activity, and submit invoices to the Controller's Office for payment.

The DBP PM will be responsible for management of the grant and all associated reporting, budget management, and compliance requirements. The DBP PM also manages all environmental site assessment activities, including developing scopes of service and data quality objectives, coordinating all on-site activities, reviewing and approving all deliverables, processing all invoices, and dispersing final documents. The DBP PM will continue to manage the different environmental assessment, reporting and review activities that are integral to the RLF program administration scope of work. The DBP PM will collect, file and confirm all invoices with the TPOSC to ensure they are correct prior to providing them to the CPA for payment processing.

One OED coordinator serves as a consultant to the DBP. This consultant, who has managed and worked with the program 12 years, will work with the DBP PM to market, manage and implement the program as needed.

- Office of Financial Services (OFS) provides financial, management and accounting services to support the City Manager's Office. There are six divisions, including Cash and Debt Management which develops financial strategies for public improvements, manages City's banking relationships and invests all city funds and Accounting Services which processes all vendor payments and insures the integrity of the City's accounting system. We will work with OFS throughout the life of the RLF program.
- City Attorney's Office has assisted OED during the development of the RLF proposal, including the opinion letters and the loan documents. One Assistant City Attorney has been the legal point of contact and has the expertise to assist OED staff manage and implement loan agreements. This attorney will provide ongoing legal support as needed.

#### **D. Sustainable Reuse of Brownfields**

1. Pollution prevention and reduction of resource consumption For 12 years, the DBP mission has been to assist with the redevelopment of brownfields through 1) identifying properties; 2) working with owners and developers to identify obstacles and barriers to redevelopment; and 3) developing strategies to overcome barriers and obstacles working with state and federal regulatory agencies. This has been a recipe for success in the Southern Sector and target neighborhoods. The RLF grant will assist with cleanup of sites under the guidance of the TCEQ. The resulting clean sites will restore the quality of the natural environment and will indicate to the community residents that environmental protection and community health and welfare are the number one priority of the site owners. The actions also speak to the commitment of the site owners and the City to broaden opportunities for future generations and reduce resource

consumption. Through the RLF grant, the DBP will target and direct pollution prevention and reduce resource consumption through the following techniques and strategies:

- Require all contamination pathways to adjoining properties and media be reduced or eliminated.
- Encourage recycling on site of building materials if demolition is part of the cleanup.
- Encourage use or enhancement of existing infrastructure and design for sustainability and TOD.
- Redevelopment of the property for a use other than the one which caused or contributed to the contamination.
- Encourage developers to employ LEED green building principles such as alternative stormwater management systems, erosion and sedimentation control, xeriscaping, building waste management, and recycling.

Reuse of Existing Infrastructure TOD is a commitment of the City of Dallas and DART. To further this effort, the City has initiated a four-area TOD development projects focusing on both the Southern and Northern Sectors. The emphasis is to complement and augment expansion and construction of DART light rail stations with new economic development. The City is served by numerous DART bus routes which are periodically revised to serve growing neighborhoods and new businesses. The light rail system is being expanded in the Southern and Northern Sectors to include the southeast and northwest corridors and light rail service to the Pleasant Grove neighborhood and north to Carrollton, Texas. The Southern Sector is served by existing utilities, including telephone, electric, gas, water and wastewater will continue to be used. Improvements are anticipated as neighborhoods and businesses continue to expand.

Native Landscaping The City of Dallas has promoted water conservation through an ongoing program for 14 years. One conservation tool is xeriscaping. The City has been a leader in the state promoting the use of drought-tolerant landscaping materials. The Dallas Water Utilities (DWU) has sponsored an annual Xeriscape Tour for 12 years. Homeowners with xeriscaped landscapes are encouraged to enter their yards for judging. There are usually 5 to 10 entries and three winners per year. The previous winners are included on the current year's tour. In 2007, there were 27 landscapes on the tour. Also, the DWU sponsors no-cost xeriscape seminars annually in partnership with the County Master Gardeners and area landscape companies. DWU estimates that homeowners use 50-70 percent of their water during the summer on landscaping. Each year, with the increasing interest in xeriscaped landscapes, more people reduce water consumption and conserve this precious natural resource.

Stormwater Management / Reuse As part of the City of Dallas' commitment to conservation and green development, stormwater reuse is an integral component of new City facilities. The Jack Evans Police Headquarters and two new libraries have rainwater collection systems for on-site irrigation. The Trinity Interpretative Center incorporates a fully-functioning wetland to filter wastewater and stormwater. Water filtering prior to release to the storm drains and grey water filtering for interior plumbing has been employed in a library and a fire station.

Construction Debris / Fill Reuse To the extent possible, the City of Dallas Sanitation Services recycles construction and demolition products through reuse at the McCommas Bluff Landfill.

The City process 20,000-plus cubic yards of concrete material annually for building and maintaining the roads at the landfill. A great deal of the rubble is used as gabions to assist in the control of storm water. A series of dams are constructed in the pathways of water runoff paths to slow the velocities to minimize the effects of erosion. The reuse of this material saves thousands of cubic yards of landfill space each year while benefiting the operational needs of the landfill.

Green Buildings In 2003, the Dallas City Council authorized the implementation of the City of Dallas Green Building Program to promote consistent application of a sustainable green building philosophy and incorporate sustainable building design and construction practices into municipal buildings. The City promotes the use of green building practices to all developers. Many prospective clients contact the DBP to take advantage of the Leadership in Energy and Environmental Design (LEED) and green building credits for their brownfields projects. Currently, there are 16 City facilities with LEED certifications or in the process of obtaining one. Four DBP sites have obtained certifications, including Jack Evans Police Headquarters, silver, November 2005; the International Environmental Training and Technology Center, silver March 2006; the Northwest Service Center, gold, May 2007; and the Hensley Field Operations Center, gold, December 2005. We will continue to promote LEED certifications for brownfields sites.

2. Promotion of economic benefits The RLF program promotes economic benefit to specific neighborhoods by assisting owners redevelop brownfield sites. The focus is on TOD and expansion of the DART light rail system. The development of light rail stations and the surrounding TOD will expand the tax base, increase investment, promote job creation, enhance property values, and reduce traffic and associated air pollution. Construction of light rail lines and stations will create design and construction jobs and investment in the neighborhood. The resulting TOD will include revitalization of brownfield sites into businesses which provide services and jobs for communities and housing which helps create more stable communities.

3. Creation of vibrant community through smart growth, parks and affordable housing The DBP will encourage borrowers and developers to create sustainable developments including mixed use retail, commercial, and residential projects. These will create new models for livable communities in Dallas which will set the tone for community revitalization by attracting larger retailers. Small business owners will see an opportunity to live and work in the same neighborhood. These components alone will stimulate economic development, job creation, capital investment and increases to the tax base and create a more sustainable community.

#### **E. Creation/preservation of greenspace/open space**

How will the grant facilitate creation of or preservation of green space and what programs and policies will assure long-term management, care and preservation. Redevelopment of brownfield sites reduces the demand for greenfield sites and saves open space, vegetation and the natural environment. The largest greenspace undertaking in Dallas is the Trinity River Corridor project which extends approximately 15 miles through the Southern Sector and will create 6,000 acres of open and greenspace. The DBP has worked closely with the Trinity River Corridor Office (TRCO) on this important project. The RLF will expand opportunities to assist with this project as sites are acquired, assessed and identified for cleanup. When applicable, the program

will require the borrower establish and implement a plan for long-term care, maintenance, and/or preservation of developed green space features.

## **F. Pre-Award Community Notification**

1. Community Notification Community notification for this community-wide revolving loan fund pilot grant was provided through publishing a legal notice in The Dallas Morning News on September 17, 2007, more than three weeks prior to submittal to EPA, describing the City of Dallas' intent to submit the grant proposal and identifying a public location, City Hall, Room 5CS, Dallas, Texas 75201, open during business hours, for interested parties to review and comment on the proposal prior to submittal to EPA. In addition, a copy of the draft final proposal was provided electronically to the three cooperative partners included in Section G4 of this proposal. This allowed our partners to review, comment, and share the proposal with interested parties within each community.

2. Method appropriateness The DBP has used the community notification method described above for all grant proposals submitted over the past 12 years. This method has been successful and has never resulted in complaints by residents and affected community members. When working in communities with languages other than English, the cooperative partners are able to provide interpretations. If questions were to arise, the cooperative partner agency would contact the DBP PM and request additional information which would be provided by the DBP PM. The DBP has always provided facilitators, meeting notice and materials and translations when working in non-English speaking communities, especially in 1997 with the Environmental Justice grant. This procedure will continue as needed.

3. Length of comment period As stated in Number 1, community notification for this community-wide RLF program pilot grant was three weeks.

4. Plans to address comments Comment forms are provided with a copy of the grant proposal in the OED office at City Hall, Room 5CS, Dallas, Texas 75201. Forms will be provided to all parties who come to review and comment. If written comments are made, the forms will be provided to the office staff and given to the DBP PM who will review the comments; discuss the comments with the Program Consultant; and adjust the proposal in the appropriate manner.

## **G. Ongoing Community Involvement**

1. Plan to involve community The cornerstone of the DBP has been outreach and community involvement through the Brownfields Forum. For 12 years, we have provided information to the brownfields stakeholder communities regarding important and timely issues affecting revitalization of brownfields. Prior to initiation of this RLF proposal, we contacted the identified community partners and the TCEQ for input and support. We have provided all partners with the proposal and will keep them updated on the process and successes. As decisions are made regarding cleanup and reuse of sites, community partners will be notified.

2. Describe plans to develop partnerships The DBP has been all about partnerships since its inception in October 1995. We have worked closely with EPA, Region 6 and Headquarters, and

the TCEQ to develop policies, procedures and deliverables to facilitate program success. Some of these include the MOA between EPA and TCEQ and the site prioritization process. The DBP QMP, Phase I and II ESA Scopes of Service were shared nationally with new pilots to assist EPA furthering the brownfields program regionally and nationally. The City of Dallas and the DBP are members of the US Conference of Mayors (USCM), the National Association of Local Government Environmental Professionals (NALGEP).

The DBP was a Brownfields Showcase Community and worked with multiple federal agencies, including the US Department of Housing and Urban Development (HUD), General Services Administration, US Army Corps of Engineers, EPA, Department of Health and Human Services, and the Federal Home Loan Bank to create the Center of Hope, a homeless women's and children's shelter. In addition, the DBP has created numerous local partnerships with business associations, chambers of commerce, and academic institutions. We will work with Cherokee to continue to develop new partnerships with for- and non-profit organizations to establish additional contacts and provide assistance to communities unfamiliar with brownfields concepts and advantages.

3. Communicating progress The City of Dallas and the DBP have a history of providing information in indigenous languages. During the Environmental Justice grant during 1997-98, all meetings were conducted by bilingual facilitators and informational materials were created using translation services. We will continue to be sensitive to indigenous populations and make every effort to ensure communities are informed about brownfields revitalization activities. Other City offices employ similar methods, including the TRCO management who works with bilingual facilitators and staff to communicate information at community meetings.

#### 4. Community partners

Jack Wierzenski, Economic Development Coordinator, Dallas Area Rapid Transit (DART), 1401 Pacific Avenue, Dallas, Texas 75266, Phone: 214-749-2881, Fax: 214-749-3844. DART works to build, establish and operate a safe, efficient and effective transportation system that, within the DART Service Area, provides mobility, improves the quality of life, and stimulates economic development through the implementation of the DART Service Plan as adopted by the voters on August 13, 1983, and as amended from time to time.

Mike Rosa, Vice President of Economic Development, Greater Dallas Chamber of Commerce (GDCC), 700 North Pearl Street, Suite 1200, Dallas, Texas 75201, Phone 214-746-6600, Fax 214-746-6669. GDCC unites and engages the Dallas region's business community and provides dynamic business and civic leadership to develop and sustain a prosperous economy and a vibrant community.

Rick Loessberg, Director of Planning and Development of Dallas County, 411 Elm Street, 3<sup>rd</sup> Floor, Dallas, Texas 75202, Phone 214-653-7601, Fax 214-653-6517. The Dallas County Planning and Development Department operates the community development block grant (CDBG) program, open space/trail program, household hazardous waste program, housing reconstruction program, law library, library assistance program and conducts its economic development and historic preservation activities to serve the citizens of Dallas.

## **H. Reduction of Threats to Human Health and the Environment**

1. Address identification/reduction of threats to human health and the environment The RLF grant funds will be used for loans and eligible cleanup activities on brownfield properties with hazardous and/or petroleum contamination. Borrowers will have their properties assessed and entered into or in the process of entering the TCEQ VCP prior to entry into the RLF program. Sources of threats to human health and the environment will be identified during the assessment process and will be addressed in the reports and documents required by the TCEQ VCP. All properties will be cleaned up to a standard that is protective of the end-use and users based on approval by the TCEQ VCP.

2. Work with EPA, State, City health department to consider health issues We will contact the City of Dallas Environmental and Health Services and the EPA for information regarding health issues associated with the identified communities. If chemicals of concern (COCs) are identified on the sites which are regulated by the State Department of Health, the borrower will be required to involve the appropriate office to ensure all protective health requirements for cleanup are met. All sites will be entered into the TCEQ VCP. Project officers for each project will monitor work to determine cleanups are protective of human health and the environment.

## **I. Leveraging Additional Resources**

1. Organizational resources committed outside of the grant The OED has Tax Increment Financing (TIF) Districts. Some of the targeted sites may fall within these and may receive assistance for public improvements if included in the overall plan for the TIF District. There are also tax abatement, development fee rebates and infrastructure cost participation assistance which are approved on a case by case basis by the Dallas City Council. Development projects constructed on the cleaned up sites may qualify for these assistance opportunities. The City has provided infrastructure to several of the business parks in the Southern Sector to facilitate growth and economic development. This commitment to the Southern Sector is ongoing and encouraged through the City's management staff.

2. Ability to leverage funds The OED may leverage funds from the General Fund or economic development initiatives. Coalition members may bring their expertise and resources to support cleanup, infrastructure needs and redevelopment activities if funding gaps are identified. We will work with developers with substantial financial resources to see that the developments are completed.

## **J. Programmatic Capability/Management Structure**

1. Ability to manage grants The City of Dallas has been a Brownfields Assessment Pilot city since October 1995 (\$225,000); a Brownfields Showcase Community since March 1998 (\$500,000); an Environmental Justice grant recipient in September 1997 (\$20,000); a Superfund Reuse Pilot recipient in August 2000 (\$100,000); a Brownfields Assessment Grant in 2004 (\$200,000); and a Brownfields Assessment Grant in 2006 (\$200,000) which is the only grant currently open with approximately \$100,000.00 remaining. Project commitments of \$60,000 will be expended during first and second quarters FY07/08. Other projects are in preliminary



discussion stages. We anticipate that less than \$15,000 will remain unused at end of FY 07/08. We will request a one-year, no-cost time extension for these funds.. The City received an Economic Development Initiative (EDI) award of \$72,168 for construction associated with the Joppa Neighborhood Community Rodeo in southeast Dallas. The City has the staff and mechanisms to create, accept, and manage federal grants and meet all compliance requirements. Continued funding assistance through the RLF grant is vital to the ongoing viability of the DBP.

The Assessment and Showcase grants provided funds for the environmental assessment of 38 brownfield sites. With the RLF, the City will expand its services to include cleanup to developers and property owners. A requirement of this application included contacting the TCEQ VCP Manager and obtaining a letter acknowledging clean up activities will be conducted. The state agency staff assigned to review reports and submittals will provide a level of expertise to ensure that cleanup activities are appropriate in accordance with all predetermined requirements addressed in the VCP agreement. In addition, TCEQ staff will ensure that activities will meet all objectives to ensure protection of the natural environment and ultimately, improvement of the community environment and economic conditions in the Southern Sector and targeted communities.

The BPM is familiar with Phase I and II ESA requirements and has for the past 11 years managed procurement of services to conduct environmental studies and vendor contracts. The BPM shall continue to provide oversight and review invoices, reports by the TPOSC, and participate in field activities. The DBP policy has always required that our EPA Project Officer is provided the opportunity to review and comment on all deliverables related to procurement of Phase I and II ESAs. We will extend this to include all deliverables associated with the RLF.

Since the inception of the Dallas Brownfields Program in October 1995, the DBP has made significant accomplishments and received local, state and national recognition. The City has a list of 46 brownfield successes which have leveraged \$3.4B for construction and redevelopment; created more than 3,000 redevelopment jobs; leveraged \$13.4M non-pilot cleanup dollars; and created more than 3,000 cleanup and construction jobs. Our EPA assessment grant funds have been used to conduct 31 Phase I ESAs, nine Phase II ESAs, and one Engineering Evaluation / Cost Analysis (EE/CA).

In addition, the City leveraged \$50,000 from the EPA and the United States Army Corps of Engineers (USACE) to conduct Phase I and II ESAs on the Jack Evans Police Headquarters site. Our partnership with TCEQ has helped promote the VCP. Between 1995 and 2005, the TCEQ VCP received 264 applications for sites within the City of Dallas. The City was selected as a recipient of a Superfund Innovative Technology Evaluation (SITE) Program demonstration for Grand Plaza Shopping Center in South Dallas in 2004. The estimated value of the demonstration conducted by EPA was \$500,000. In addition, the TCEQ has provided five Brownfields Site Assessments (BSAs) and one groundwater monitoring event for projects in South and West Dallas totaling \$83,378.57 from 2001 through 2004. The Dallas Brownfields Program has received recognition for its accomplishments:

1997 – Certificate of Special Recognition from the Public Employees Roundtable  
1997 – Selected for the Southern Methodist University Community Partners Program



- 1998 – Renew America Award from the National Council for Environmental Sustainability
- 1999 – Hosted the national EPA Brownfields 1999 Conference
- 2000 – Environmental Engineering Excellence Winner for the American Airlines Center and Victory Development from the Consulting Engineers Council of Texas (partner with Halff Associates, Inc.)
- 2001 – Phoenix Award, EPA Region 6 winner, American Airlines Center
- 2002 – Texas Environmental Excellence Award for the American Airlines Center and Victory Development from the former Texas Natural Resource Conservation Commission (TNRCC), now TCEQ, (partner with Halff Associates, Inc.)
- 2003 – Phoenix Award, EPA Region 6 winner, Jack Evans Police Headquarters
- 2005 – Phoenix Award, EPA Region 6 winner, Pinnacle Park Redevelopment Park

Since the inception of the DBP in 1995, we have leveraged \$3,418,660,493.00 in non-pilot dollars for construction and redevelopment of brownfield sites. This trend will continue with the approval of this proposal so our program may continue and expand services to include cleanup.

2. History of managing federal funds The City of Dallas has participated in two performance audits conducted by the EPA Office of Inspector General; the first was in December 1997 and the second was in March 2002. The December 1997 audit did include a review of quarterly progress reports and budgets; the March 2002 audit focused on the performance measures and program information gathering for input for the implementation of the new brownfields legislation. The auditors found no problems with the City's compliance. The City has never received notification of negative findings or been subjected to an OMB Circular A-133 audit or asked to comply with high risk terms and conditions on OMB Circular A-102. In February 2004, the DBP was used as an example for development of auditing procedures to be implemented by the General Accountability Office for other brownfields pilots nationwide.

3. Reporting compliance The City has the staff and mechanisms to create, accept and manage federal grants and meet all compliance requirements. We are in compliance with all reporting requirements including quarterly progress reports, brownfields reporting measures, cash transactions reports and annual financial status reporting for all grants. The Environmental Justice, the Superfund Reuse Pilot, the first Brownfields Assessment Pilot / Showcase grant and the second assessment grant, obtained in 2004, have been closed. The Assessment Grant approved in 2006 continues to provide assistance with environmental assessments. We anticipate this grant will be closed within the two year grant period ending on September 30, 2008. If not, we will request a one-year, no-cost time extension.

4. Methods to track leveraging resources OED will report on a quarterly basis describing the progression toward work plan goals and objectives. This will include a description of outcomes and tasks which have been or are being met and which ones are outstanding. RLF loan documents will include periodic reporting requirements.

# **Appendix A**

## **Support Letter**

**Texas Commission on Environmental Quality (TCEQ)**

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 13, 2007

Ms. Ann Grimes  
Office of Economic Development  
City of Dallas  
1500 Marilla Street, Room 5CS  
Dallas, Texas 75201

Re: City of Dallas Application for a U.S. Environmental Protection Agency Brownfields  
Revolving Loan Grant

Dear Ms. Grimes:

The Texas Commission on Environmental Quality (TCEQ) is pleased to offer this letter of support for the City of Dallas's application to the U.S. Environmental Protection Agency for a Brownfield Revolving Loan Grant. The TCEQ believes that the grant will significantly benefit the City of Dallas by enhancing the local economy, increasing the tax base, and improving the environment.

The TCEQ looks forward to working with the City of Dallas on its Brownfields initiative and supports the grant application. You may contact me at (512) 239-5872 or [mfrew@tceq.state.tx.us](mailto:mfrew@tceq.state.tx.us) with any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G., Brownfields Coordinator  
Environmental Cleanup Section II  
Remediation Division

MF/jhm

# **Appendix B**

## **Opinion Letter**

**Legal authority to access and secure sites**

PRIVILEGED

## Memorandum



CITY OF DALLAS

DATE September 5, 2007  
TO Ann Grimes, Economic Development  
SUBJECT Opinion – Authority to enter onto property

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This responds to your question as to whether the City has the legal authority to access and secure sites by non-judicial means in the event of a loan default.

### Brief Answer

Yes, so long as the relevant loan documents are properly drafted to create such powers and rights, and so long as the foreclosure process complies with the applicable loan documents and with Chapter 51 of the Texas Property Code.

### Facts

The City is in the process of preparing a proposal (the "Proposal") for a Brownfields Assessment, Revolving Loan Fund, and Cleanup Grant ("Grant") pursuant to the Small Business Liability Relief and Brownfields Revitalization Act, P.L. 107-118 (the "Brownfields Act"). The guidelines for such proposals request an opinion demonstrating an applicant's "legal authority to access and secure sites in the event of an emergency or default of a loan agreement." The lack of definition of the terms "access and secure sites," "default" and "emergency" rendered the request vague to the point it was not susceptible to a definitive response. Subsequently, however, in a telephone conversation with counsel for grantor, the City received clarification that United States Environmental Protection Agency (EPA) that what is sought is merely an opinion that non-judicial means of acquiring access to property securing a loan, such as foreclosure, could be made available to the City as a lender.<sup>1</sup>

### Analysis

In Texas, most property may be foreclosed nonjudicially without filing suit and entry of judgment ordering foreclosure. Nonjudicial foreclosure allows all aspects of foreclosure to proceed without a court order or direct supervision. If the property is real property, such property is used to secure a loan, and the loan documents (typically a Deed of Trust for real property) so provide, the initial default in the Deed of Trust may be declared by the holder

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<sup>1</sup> Telephone conversation with James Bove, Office of Regional Counsel, Superfund Division, USEPA Region VI, August 29, 2007.

without court order. Declaration and notice of default, demand, acceleration of indebtedness, notice and foreclosure sale may also occur without direct court order or approval. The foreclosure process must comply with the terms of the Deed of Trust and Section 51.002 of the Texas Property Code; nevertheless, such process is not directly supervised by the courts. See, e.g., Bonilla v. Robertson, 918 S.W. 2d 17 (Tex. App. Corpus Christi 1996) (A foreclosure sale may be instituted either by a judgment of the court establishing the debt and fixing the lien, or by a valid exercise of a power contained in a deed of trust). Baggett, W.M., Texas Foreclosure Law and Practice, Sections 1.60-1.61 (Supp. 2006).

Acquisition of real property through other means, such as the use of Eminent Domain proceedings to acquire real property for public uses (Property Code, Chap. 21), or Trespass to Try Title (Property Code, Chapter 22) may also be available in appropriate circumstances. Detailed discussion of the availability of such other remedies, however, is beyond the purview of the requested opinion.



David E. Howe  
Assistant City Attorney

# **Appendix C**

## **Opinion Letter**

**Legal authority to hold funds, make loans, enter into loan agreements, and collect repayments.**

# Memorandum



CITY OF DALLAS

DATE August 28, 2007

TO Ann Grimes, Brownfield Coordinator-Economic Development

SUBJECT Opinion – Authority to administer RLF program

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This responds to your question as to whether the City has the legal authority to hold funds, make loans, enter into loan agreements and collect repayments.

## Brief Answer

Yes, so long as the loans in question are made pursuant to a program that has been established to promote state or local economic development.

## Facts

The City is in the process of preparing a proposal (the "Proposal") for a Brownfields Assessment, Revolving Loan Fund, and Cleanup Grant ("Grant") pursuant to the Small Business Liability Relief and Brownfields Revitalization Act, P.L. 107-118 (the "Brownfields Act"). The Guidelines for such proposals request an opinion demonstrating an applicant's legal authority to perform the actions necessary to manage a revolving loan fund. "At a minimum, legal authority must include the ability to hold funds, make loans, enter into loan agreements, and collect repayments. This authority may be based on statute, regulation, or other authority."

Under the Guidelines, brownfield sites are defined as "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant." The Guidelines go on to state that "Brownfield areas, particularly those in city centers, were contributing to blight and joblessness in surrounding communities. Unknown environmental liabilities were preventing communities, developers, and investors from restoring these properties to productive use and revitalizing impacted neighborhoods." The Brownfields Act, among other things, "expands potential federal financial assistance for brownfield revitalization, including grants for assessment, cleanup and job training." The Proposal is to be an application for such assistance.

Specifically, the assistance requested is in the form of a grant for the purpose of establishing a Revolving Loan Fund (RLF), to be used to fund brownfields assessment and related projects. The City would administer the RLF and would provide matching funds.

Section IV of the Guidelines discusses Proposal and Submission Information. The instant request for opinion is contained in subsection F of that section.



## Analysis

Chapter II, Section 1 of the City Charter of the City of Dallas ("Charter") describes specific powers of the City. While that provision does not specifically address the authority of the City to loan funds or to do other activities involved in the lending of funds, it does state the city has the power "To contract and be contracted with," (Subsection (5)), to appropriate the money of the city for all lawful purposes (Subsection (9)), and "to acquire property within or without its boundaries for any public purpose." (Subsection (8)). In addition, Chapter II, Section 2 of the Charter states "The enumeration of particular powers in the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city shall have and may exercise all other powers which under the Constitution and laws of the State of Texas, it would be competent for the Charter specifically to enumerate. The city shall have and exercise all the powers conferred upon cities by what is known as the Home Rule Amendment to the Constitution of the State of Texas and the Enabling Act relative thereto ... and all other laws passed by the legislature of the State of Texas, relating thereto, or which may hereafter be passed by said legislature in relation to such matters."

The "Home Rule" Amendment referred to in the Charter is found in Article 11, Section 5, of the Constitution of the State of Texas. It provides as follows:

Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. If the number of inhabitants of cities that have adopted or amended their charters under this section is reduced to five thousand (5000) or fewer, the cities still may amend their charters by a majority vote of the qualified voters of said city at an election held for that purpose. The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half per cent. of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent. thereon. Furthermore, no city charter shall be altered, amended or repealed oftener than every two years. (Amended Aug. 3, 1909, Nov. 5, 1912, and Nov. 5, 1991.)

In essence, the powers of cities within the Home Rule Amendment embrace all those not prohibited by statute or by the Texas Constitution. *City of Brownsville v. Public Utility Commission of Texas*, 616 S.W.2d 402 (Tex. Civ. App. 1981, ref. n.r.e.).

In addition, Article 3, Section 52-a of the Texas Constitution, provides, in pertinent part:

Notwithstanding any other provision of this constitution, the legislature may provide for the creation of programs and the making of loans and grants of public money, other than money otherwise dedicated by this constitution to use for a different purpose, for the public purposes of development and diversification of the economy of the state, the elimination of unemployment or underemployment in the state, ... or the development or expansion of transportation or commerce in the state. . . . A program created or a loan or grant made as provided by this section that is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the political subdivision does not constitute or create a debt for the purpose of any provision of this constitution. (Added Nov. 3, 1987; amended Nov. 8, 2005.)

Pursuant to this provision, the Texas legislature enacted Chapter 380 of the Local Government Code. That Chapter provides, in pertinent part, as follows:

§ 380.001. ECONOMIC DEVELOPMENT PROGRAMS. (a) The governing body of a municipality may establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality. ...

(b) The governing body may:

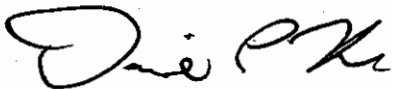
- (1) Administer a program by the use of municipal personnel;
- (2) Contract with the federal government, the state, a political subdivision of the state, a nonprofit organization, or any other entity for the administration of a program; and
- (3) Accept contributions, gifts, or other resources to develop and administer a program.

§ 380.003. APPLICATION FOR MATCHING FUNDS FROM FEDERAL GOVERNMENT. A municipality may, as an agency of the state, provide matching funds for a federal program that requires local matching funds from a state agency to the extent state agencies that are eligible decline to participate or do not fully participate in the program.

Pursuant to Chapter 380, the Attorney General of Texas recently opined that "Texas Constitution article III, section 52-a and Local Government Code section 380.001 authorize a city to make a loan for a housing project if the project will promote economic development within the meaning of these provisions." Opinion GA-529 (March 9, 2007).

Further, the statute provides that such loans may be made pursuant to "programs for making loans... of public money and providing personnel and services of the municipality," that cities may "contract with the federal government ... for the administration of a program," and that cities may "accept contributions, gifts or other resources to develop and administer [such] a program."

In the instant situation, the Guidelines specifically state the purpose of the Grant is "restoring [blighted] properties and to productive use and revitalizing impacted neighborhoods," and thus clearly promote economic development. Accordingly, the city does have the authority, conferred by statute, to hold funds, make loans, enter into loan agreements and collect repayments in these circumstances.



David E. Howe  
Assistant City Attorney

# **Appendix D**

## **Department of Justice Letter**

### **Officially Recognized Weed and Seed sites within the City limits**



U.S. Department of Justice

United States Attorney  
Northern District of Texas

1100 Commerce Street, 3rd Floor  
Dallas, Texas 75242-1699

Telephone: 214.659.8660  
Fax: 214.767.2898

August 14, 2007

City of Dallas  
Office of Economic and Development  
Attn: Ms. Ann Grimes  
1500 Marilla Room 5CS  
Dallas, TX 75201

Dear Ms. Grimes:

This letter is in response to your inquiry concerning the Weed and Seed sites in Dallas. Currently, the City of Dallas has three funded and two graduated Weed and Seed sites within the city limits. All of these sites are currently designated Officially Recognized Weed and Seed sites. The Weed and Seed Communities are as follows:

Ferguson Road Weed and Seed (Graduated)  
South Dallas Weed and Seed (Graduated)  
West Dallas Weed and Seed  
Two-Points Weed and Seed  
Pleasant Grove Weed and Seed

If you have any questions, please contact my Law Enforcement Coordinator, Dow Croyle, at 214-659-8660.

Sincerely,

Richard B. Roper  
United States Attorney

# **Appendix E**

## **Legal Notice**

[illegible]